

FORM EXEMPT UNDER 44 U.S.C. 3512

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case

32-CA-120919

Date Filed

1/21/2014

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

Bay Area Restaurant Management Co.

b. Tel. No.

(925) 277-0563

c. Cell No.

()

f. Fax No.

(925) 830-0771

g. e-Mail

h. Number of workers employed
100

d. Address (Street, city, state, and ZIP code)

2268 Camino Ramon
San Ramon, CA 94583

e. Employer Representative

(b) (6), (b) (7)(C)

i. Type of Establishment (factory, mine, wholesaler, etc.)
Corporate Restaurant Chainj. Identify principal product or service
Fast Food

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Within six (6) months of the filing of this charge, the above-referenced employer, Bay Area Restaurant Management Co., which owns and operates McDonald's restaurants, violated Section 8(a)(1) and 8(a)(3) of the Act when it terminated (or indefinitely suspended) employee (b) (6), (b) (7) in retaliation for (b) (6), (b) (7) engaging in protected activity and because of (b) (6), (b) (7) union affiliation.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

East Bay Organizing Committee

4a. Address (Street and number, city, state, and ZIP code)

2501 International Boulevard, Suite D
Oakland, CA 94601

4b. Tel. No.

(510) 207-3178

4c. Cell No.

()

4d. Fax No.

()

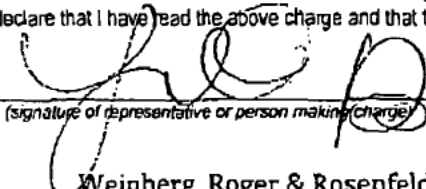
4e. e-Mail

ryan.eboc@gmail.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)
N/A

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.



Lisl R. Duncan, Attorney

(signature of representative or person making charge)

(Print type name and title or office, if any)

Tel. No.

(213) 380-2344

Office, if any, Cell No.

Fax No.

(213) 443-5098

e-Mail

lduncan@unioncounsel.net

Weinberg, Roger & Rosenfeld
Address 800 Wilshire Boulevard, Suite 1320, Los Angeles, CA 90017 January 17, 2014 (date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

131704/748929

STEWART WEINBERG
DAVID A. ROSENFELD
WILLIAM A. BOYD
DLYTHE MCKELDON
BARRY E. HINKLE
CHRISTIAN L. RAISNER
JAMES J. WILDER
THEODORE FRANKLIN
ANTONIO RUIZ
MATTHEW J. CAUDER
ASHLEY K. KUDA
LINDA WALDMAN JONES
PATRICIA A. DAVIS
ALAN C. CROWLEY
KRISTINA L. HILLMAN
EMILY P. RICH
BRUCE A. FARLAND
CONCEPCION E. LOZANO-SATISTA
GAREN P. SENCER
ANNE I. YEN
KRISTINA M. ZARNEN
JANUARY V. MANNING-SALA
MANUEL A. BOICLES
KERRANNE R. STEELE
GARY P. PROVENCER
GEOFFREY D. BARDER
MONICA T. GUZAR
CHARON A. SODENSTEIN
LESLIE DUNCAN

WEINBERG, ROGER & ROSENFELD
A Professional Corporation
800 Wilshire Blvd, Suite 1320
Los Angeles, CA 90017
TELEPHONE (213) 380-2344
FAX (213) 443-5098

JORDAN D. MILLER
JACOB J. WHITE
SEAN D. GRAMAM
DANIEL S. BROWNE
JOLENE KRAMER
STEPHANIE L. KARRIN
ANTHONY J. TUCCI
ROBERT E. SZYDOWITZ

VINCENT A. HARRINGTON, Of Counsel
PATRICIA M. GATES, Of Counsel
ROBERTA D. PERKINS, Of Counsel
NINA FENDEL, Of Counsel
ANA M. GALLEGO, Of Counsel

- Admitted in Nevada
- Also admitted in Nevada
- Also admitted in Illinois
- Also admitted in New York

January 17, 2014

VIA EMAIL & US MAIL

William A. Baudler
Regional Director, Region 32
National Labor Relations Board
Oakland Federal Building
1301 Clay Street, Room 300-N
Oakland, CA 94612-5211

Re: **East Bay Organizing Committee
and Bay Area Restaurant Management Co.**

Dear Mr. Baudler:

Enclosed for filing is the Original and four (4) copies of the Charge Against Employer for the above-entitled matter.

In regard to your investigation of this case, please send any questionnaires to **Ryan Dowling** at the address of the charging party and please contact Mr. Dowling at (510) 207-3178 (email: ryan.eboc@gmail.com), to arrange obtaining statements from witnesses.

Should you need to contact me, please do not hesitate to contact me at the office or by email at sgraham@unioncounsel.net.

Thank you for your cooperation in this matter.

Sincerely,


Lisa R. Duncan

LRD:(b)
opeiu 3 afl-cio(1)
(b) (6), (b) (7)(C)

Enclosures

cc: Ryan Dowling

ALAMEDA OFFICE
1001 Marina Village Parkway, Suite 200
Alameda, CA 94501-1081
TEL 510.337.1001 FAX 510.337.1023

SACRAMENTO OFFICE
428 J Street, Suite 520
Sacramento, CA 95814-2341
TEL 916.443.6600 FAX 916.442.0244

HONOLULU OFFICE
Union Plaza
1136 Union Mall, Suite 402
Honolulu, HI 96813-4500
TEL 808.528.8880 FAX 808.528.8881

2014 JAN 21 AM 8:55
OAKLAND, CA.
NLRB REGION 2

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 800 Wilshire Boulevard, Suite 1320, Los Angeles, California 90017.

On January 17, 2014, I served the *Charge Against Employer (name employer)* on the interested party in said action by placing a true and exact copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box at Los Angeles, California, addressed as follows:

(b) (6), (b) (7)(C)

Bay Area Restaurant Management Co.
2268 Camino Ramon
San Ramon, CA 94583

I certify under penalty of perjury that the foregoing is true and correct.

Executed at Los Angeles, California on January 17, 2014

(b) (6), (b) (7)(C)

RECEIVED
FEDERAL REGION 3
2014 JAN 21 AM 8:55
OAKLAND, CA.

REGION 32 – DOCKET SHEET (Charge Against EMPLOYER)

Case Name:	Bay Area Restaurant Management Co.
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Method of Receipt:	Visit	<input checked="" type="checkbox"/> Written (fax or Mail)	
IO Assisted	Yes	<input checked="" type="checkbox"/> No	
IO Inquiry # on charge	Yes	<input checked="" type="checkbox"/> No	

Assigned to	Supervisor	H-M	Agent	Rosales
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Dispute Location	City	San Ramon	State	CA
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Allegations: (See back)

Bargaining Status (Check one)

Existing Contract	<input checked="" type="checkbox"/>	None	
Organizational Campaign	<input checked="" type="checkbox"/>	Seeking Initial Contract	
Seeking Successor Contract	<input type="checkbox"/>		

No. of 8(a) (3) Discriminatees	1
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Include Back Pay Paragraph	<input checked="" type="checkbox"/>
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IA Category	III
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10(j) (check if applicable)	<input checked="" type="checkbox"/>
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Related Cases (Relate on case level and Investigation Action unless otherwise noted)	
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Blocks R Case Number: (Relate on case level and Investigation Action unless otherwise noted)	
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Comments:	
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Section	Allegation	Applicable?
8(a)(1)	Coercive Actions (Surveillance, etc)	
	Coercive Rules	
	Coercive Statements (Threats, Promises of Benefits, etc.)	
	Concerted Activities (Retaliation, Discharge, Discipline) (*)	
	Denial of Access	
	Discharge of supervisor (Parker-Robb Chevrolet)	
	Interrogation (including Polling)	
	Lawsuits	
	Weingarten	
8(a)(2)	Assistance	
	Domination	
	Unlawful Recognition	
8(a)(3)	Changes in Terms and Conditions of Employment	
✓	Discharge (Including Layoff and Refusal to Hire (not salting) (*)	
	Discipline	
	Lockout (*)	
	Refusal to Consider/Hire Applicant (salting only) (*)	
	Refusal to Hire Majority (*)	
	Refusal to Reinstate E'ee/Striker (e.g. Laidlaw) (*)	
	Retaliatory Lawsuit	
	Shutdown or Relocate/ Subcontract Unit Work (*)	
	Union Security Related Actions (*)	
8(a)(4)	Changes in Terms and Conditions of Employment	
	Discharge (including Layoff and Refusal to Hire)	
	Discipline	
	Refusal to Reinstate Employee/Striker	
	Shutdown or Relocate/ Subcontract Unit Work	
8(a)(5)	Alter Ego	
	Failure to Sign Agreement	
	Refusal to Bargain/Bad Faith Bargaining (incl'g surface bargaining/direct dealing	
	Refusal to Furnish Information	
	Refusal to Recognize	
	Repudiation/Modification of Contract [Sec 8(d)/Unilateral Changes] (*)	
	Shutdown or Relocate (e.g. First National Maint.). Subcontract Work (*)	
8(e)	All Allegations against an Employer	

(*) May require adding the Back – Pay Statement to Charging Party Letter



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlrb.gov
Telephone: (510)637-3300
Fax: (510)637-3315

January 21, 2014

(b) (6), (b) (7)(C)

BAY AREA RESTAURANT MANAGEMENT CO.
2268 CAMINO RAMON
SAN RAMON, CA 94583

Re: Bay Area Restaurant Management Co.
Case 32-CA-120919

Dear (b) (6), (b) (7)(C)

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Attorney Brenda Rosales whose telephone number is (510)637-3267. If this Board agent is not available, you may contact Deputy Regional Attorney Valerie M. Hardy-Mahoney whose telephone number is (510)637-3283.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly. **Due to the nature of the allegations in the enclosed unfair labor practice charge, we have identified this case as one in which injunctive relief pursuant to Section 10(j) of the Act may be appropriate.** Therefore, in addition to investigating the merits of the unfair labor practice allegations, the Board agent will also inquire into those factors relevant to making a determination as to whether or not 10(j) injunctive relief is appropriate in this case. Accordingly, please include your position on the appropriateness of Section 10(j) relief when you submit your evidence relevant to the investigation.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

January 21, 2014

We can provide assistance for persons with limited English proficiency or disability.
Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "George Velastegui". The signature is written in a cursive, flowing style.

George Velastegui
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

Revised 3/21/2011

NATIONAL LABOR RELATIONS BOARD

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

Bay Area Restaurant Management Co.

CASE NUMBER

32-CA-120919

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)**2. TYPE OF ENTITY**☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)**3. IF A CORPORATION or LLC**A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS**5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).****7. A. PRINCIPAL LOCATION:****B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates)**YES NO**A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$H. **Gross Revenues** from all sales or performance of services (Check the largest amount)
☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. **Did you begin operations within the last 12 months?** If yes, specify date: _____**10 ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?**☐ YES ☐ NO (If yes, name and address of association or group).**11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS**

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

BAY AREA RESTAURANT MANAGEMENT CO.

Charged Party

and

EAST BAY ORGANIZING COMMITTEE

Charging Party

Case 32-CA-120919

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on January 21, 2014, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

BAY AREA RESTAURANT MANAGEMENT CO.
2268 CAMINO RAMON
SAN RAMON, CA 94583

January 21, 2014

Date

Ida Lam, Designated Agent of NLRB

Name

/s/ Ida Lam

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlrb.gov
Telephone: (510)637-3300
Fax: (510)637-3315

January 21, 2014

RYAN DOWLING
EAST BAY ORGANIZING COMMITTEE
2501 INTERNATIONAL BOULEVARD, SUITE D
OAKLAND, CA 94601

Re: Bay Area Restaurant Management Co.
Case 32-CA-120919

Dear Mr. Dowling:

The charge that you filed in this case on January 21, 2014 has been docketed as case number 32-CA-120919. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Attorney Brenda Rosales whose telephone number is (510)637-3267. If the Board agent is not available, you may contact Deputy Regional Attorney Valerie M. Hardy-Mahoney whose telephone number is (510)637-3283.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlr.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "George Velastegui". The signature is written in a cursive, flowing style.

George Velastegui
Regional Director

cc: LISL R. DUNCAN, ESQ.
WEINBERG ROGER & ROSENFELD
800 WILSHIRE BLVD STE 1320
LOS ANGELES, CA 90017-2623



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlrb.gov
Telephone: (510) 637-3300
Fax: (510) 637-3315

Agent's Direct Dial: (510) 637-3267

January 30, 2014

VIA E-MAIL ONLY

MICHAEL G. PEDHIRNEY, ESQ.
LITTLER MENDELSON P.C.
650 California St Fl 20
San Francisco, CA 94108-2601

Re: Bay Area Restaurant Management Co.
Case 32-CA-120919

Dear Mr. PEDHIRNEY:

I am writing this letter to advise you that it is now necessary for me to take evidence from your client regarding the allegations raised in the investigation of the above-captioned matter. As explained below, I am requesting to take affidavits on or before **Friday, February 14, 2014** with regard to certain allegations in this case.

Allegations: The allegations for which I am seeking your evidence are as follows.

Within six months of the filing of this charge, the Employer violated Section 8(a)(1) and 8(a)(3) of the Act when it terminated (or indefinitely suspended) employee (b) (6), (b) (7)(C) in retaliation for (b) (6), (b) (7)(C) engaging in protected concerted activity and because of (b) (6), (b) (7)(C) union affiliation.

The Charging Party also presented evidence that on or about (b) (6), (b) (7)(C), 2013 (b) (6), (b) (7)(C) threatened an employee by ordering the employee to stop engaging in Union activity.

Board Affidavits: I am requesting to take affidavits from (b) (6), (b) (7)(C) (last name unknown), and any other individuals you believe have information relevant to the investigation of the above-captioned matter. If you do not allow the Board agent to take sworn affidavits from representatives who may have relevant information, the Agency will consider that to constitute less than complete cooperation in the investigation of the charge. If you plan to make witnesses available for affidavits, please contact me by **Thursday, February 6, 2013** or sooner to schedule the affidavits. If I do not hear from you by Thursday, February 6, 2013, I will assume you are not making witnesses available in this matter.

Additional Evidence Requested: In addition to taking affidavits, I am requesting the information listed below. If any of the information listed below does not exist or will not be made available, please state that it does not exist or the reason why it will not be made available.

- (1) Please provide a completed Commerce Questionnaire.
- (2) Please provide the Employer's complete response to the allegations set forth above.
- (3) Please provide all communications from the Employer to the Employment Development Department concerning employee (b) (6), (b) (7)(C).
- (4) Please provide all communications from the Employment Development Department to the Employer concerning employee (b) (6), (b) (7)(C).
- (5) Please provide all communications between the Employer and other governmental agencies concerning employee (b) (6), (b) (7)(C).
- (6) Please provide the names, dates of termination/suspension, and supporting documents for all other employees terminated/suspended for the same or similar reasons for which the Employer terminated/suspended employee (b) (6), (b) (7)(C) for the period of (b) (6), (b) (7)(C) 2011 to (b) (6), (b) (7)(C) 2013.
- (7) Please provide communications between the Employer and the Employment Development Department concerning other employees for the period of (b) (6), (b) (7)(C) 2011 to (b) (6), (b) (7)(C) 2013.
- (8) For each employee identified in item 7 above, please explain what course of action, if any, the Employer took in response to communications between the Employer and the Employment Development Department. Please include any supporting documentation, such as letters from the Employer to the affected employees.
- (9) If any of the employees identified in item 7 above were not terminated/suspended like (b) (6), (b) (7)(C) please explain why.
- (10) Please provide a complete copy of (b) (6), (b) (7)(C) personnel file.

Date for Submitting Evidence: To resolve this matter as expeditiously as possible, you are requested to present your evidence, including affidavits taken by me, in this matter by **Friday, February 14, 2014**. Electronic filing of position statements and documentary evidence through the Agency website is preferred but not required. To file electronically, go to **www.nlr.gov**, select **File Case Documents**, enter the **NLRB case number**, and follow the detailed instructions. If I have not received all your evidence by that time or spoken with you and agreed to another date, it will be necessary for me to make my recommendations based upon the information available to me at that time.

Please be further advised that it is Agency policy that full and complete cooperation on your part in this investigation includes timely providing all material witnesses under your control

to the investigating Board agent so that the witnesses' statements can be reduced to affidavit form and providing all relevant documentary evidence requested by the Board agent. The mere submission of a position letter or memorandum, or the submission of affidavits not taken by a Board agent, does not constitute full and complete cooperation in the investigation of the charge.

Please contact me at your earliest convenience by telephone, (510) 637-3267, or e-mail, brenda.rosales@nlrb.gov, so that we can discuss how you would like to provide evidence and I can answer any questions you have with regard to the issues in this matter.

Very truly yours,

/s/

BRENDA L. ROSALES
Attorney

From: Rosales, Brenda
Sent: Monday, February 3, 2014 6:18 PM
To: 'Pedhirney, Michael G.'
Subject: RE: Bay Area Restaurant Management Co. 32-CA-120919

Good afternoon Mr. Pedhirney,

Sorry for the delayed reply. The Region has evidence that on or about (b) (6), (b) (7)(C) 2013 (b) (6), (b) (7)(C) (whose last name the Region does not know) interrogated an employee about (b) (6), (b) (7)(C) Union activity and the Union activity of other employees.

Please let me know if you have further questions/concerns.

Thanks,

Brenda L. Rosales
Field Attorney
National Labor Relations Board, Region 32
1301 Clay St., Suite 300N
Oakland, CA 94612
Tel: (510) 637-3267
Fax: (510) 637-3315

From: Pedhirney, Michael G. [mailto:MPedhirney@littler.com]
Sent: Monday, February 03, 2014 11:40 AM
To: Rosales, Brenda
Subject: Re: Bay Area Restaurant Management Co. 32-CA-120919

Ms. Rosales:

I am unclear regarding (b) (6), (b) (7)(C) role in this. Can you provide information regarding (b) (6), (b) (7)(C) relevance to this case?

Sent from my iPhone

On Jan 30, 2014, at 3:05 PM, "Rosales, Brenda" <Brenda.Rosales@nlrb.gov> wrote:

Dear Mr. Pedhirney,

Please find attached the letter requesting evidence in this matter. Please contact me if you have any questions/concerns.

Best regards,

Brenda L. Rosales
Field Attorney
National Labor Relations Board, Region 32
1301 Clay St., Suite 300N

Oakland, CA 94612
Tel: (510) 637-3267
Fax: (510) 637-3315

<LTR.32-CA-120919.Request Evidence Letter 1.30.14.pdf>

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Littler Mendelson, P.C.
<http://www.littler.com>

Case Name: Bay Area Restaurant Management Co.
Case No. 32-CA-120919
Agent: Attorney BRENDA ROSALES

CASEHANDLING LOG

Date	Person Contacted	Method of Contact	Description of Contact or Activity
1/24/14	Ryan Dowling	Phone	I left him a VM asking him to call me back to discuss this charge in more detail and to arrange (b) (6), (b) (7)(C) affidavit.
1/24/14	Michael Pedhirney (ER attorney)	Phone	I called him to introduce myself and get an understanding of the charge from ER perspective before starting investigation.
(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	Person	(b) (6), (b) (7)(C)
1/30/14	Michael Pedhirney (ER attorney)	Email	I sent him request for evidence letter.
2/4/14	(b) (6), (b) (7)(C)	Phone	I left (b) (6), (b) (7)(C) a VM asking (b) (6), (b) (7)(C) to call me back. (b) (5), (b) (6), (b) (7)(C)
2/7/14	Pedhirney	Voicemail	He left me a VM saying (b) (6), (b) (7)(C) (b) (5), (b) (6), (b) (7)(C)
2/13/14	Pedhirney	VM	Left me a voicemail asking me to call him back.
2/14/14	Pedhirney	VM	I left him a VM. He called me back. He wants an extension to Wednesday (2/19), but he will try to get it in by 2/18. I said that worked for me but that I could not give him any extensions after that. He then had a concern re SSNs on the documents he is going to provide. I told him to send them just as they are and that the Region would redact them and/or mark them as sensitive. He said thanks. End of conversation.

2/28/14	(b) (6), (b) (7)(C)	Phone	I left (b) (6), (b) (7)(C) a VM in (b) (6), (b) (7)(C) asking (b) (6), (b) (7)(C) to call me back.
3/6/14	Lisl Duncan (Union attorney)	Phone	I left her a VM (b) (5), (b) (6), (b) (7)(C) [REDACTED] I told her that if I did not hear back from her by tomorrow at noon then the Region would issue a long-form dismissal.
3/10/14	Someone from Weinberg, Rosenfeld	Phone	(b) (6), (b) (7)(C) who works for the law firm representing the charging party left me a (b) (5), (b) (6), (b) (7)(C) [REDACTED]
3/10/14	Sean Graham (Union attorney)	Phone	He called me again. (b) (5), (b) (6), (b) (7)(C) [REDACTED] (b) (5) [REDACTED] (b) (5), (b) (6), (b) (7)(C)
3/10/14	Sean Graham	Phone	He left me a VM (b) (5), (b) (6), (b) (7)(C) [REDACTED]

ORAL WITHDRAWAL REQUEST FORM

Re: Bay Area Restaurant Management Co.
32-CA-120919

On March 10, 2014, in a voicemail, the Charging Party, through its attorney Sean Graham, informed the undersigned Board agent of its desire to withdraw the above-referenced charge and authorized withdrawal on an oral basis.

/S/ BRENDA L ROSALES
(SIGNATURE OF BOARD AGENT)

WITHDRAWAL REQUEST APPROVED

 /S/ GEORGE VELASTEGUI

 3/12/14
(DATE)

From: Velastegui, George P.
Sent: Wednesday, March 12, 2014 7:34 PM
To: Devlin, Helen E
Subject: FW: FINAL PROCESSING of Non-adjusted Withdrawal in Bay Area Restaurant Management, Case 32-CA-120919

I have approved the withdrawal request in this case (non-merit)

From: Henze, Jeffrey L.
Sent: Wednesday, March 12, 2014 4:00 PM
To: Velastegui, George P.
Subject: FW: FINAL PROCESSING of Non-adjusted Withdrawal in Bay Area Restaurant Management, Case 32-CA-120919

George: The FIR Recommending Dismissal, FIR Recommending Approval of Withdrawal, and Oral Withdrawal Request Form are ready for approval.

From: Hardy-Mahoney, Valerie M.
Sent: Wednesday, March 12, 2014 1:13 PM
To: Henze, Jeffrey L.
Subject: FINAL PROCESSING of Non-adjusted Withdrawal in Bay Area Restaurant Management, Case 32-CA-120919

Dear Jeff:

The FIR Recommending Dismissal, FIR Recommending Approval of Withdrawal, and Oral Withdrawal Request Form are ready for approval.

Val



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlrb.gov
Telephone: (510)637-3300
Fax: (510)637-3315

March 13, 2014

LISL R. DUNCAN, ATTORNEY AT LAW
WEINBERG ROGER & ROSENFELD
800 WILSHIRE BLVD STE 1320
LOS ANGELES, CA 90017-2623

RYAN DOWLING
EAST BAY ORGANIZING COMMITTEE
2501 INTERNATIONAL BOULEVARD,
SUITE D
OAKLAND, CA 94601

Re: Bay Area Restaurant Management Co.
Case 32-CA-120919

Dear Ms. Duncan and Mr. Dowling:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

GEORGE VELASTEGUI
Regional Director

cc:

(b) (6), (b) (7)(C)
BAY AREA RESTAURANT
MANAGEMENT CO.
2268 CAMINO RAMON
SAN RAMON, CA 94583

MICHAEL G. PEDHIRNEY, ESQ.
LITTLER MENDELSON P.C.
650 CALIFORNIA ST, FL 20
SAN FRANCISCO, CA 94108-2601